IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 36901 of 2007(R)

PETITIONER:

M/S ANSAL BUILDWELL LIMITED,
REGD. OFFICE AT 118, UFF, PRAKASH DEEP,
7, TOLSTOY MARG, NEW DELHI-1, REPRESENTED BY ITS
SENIOR GENERAL MANAGER, MR.M.P.MATHEWS.

BY ADV. SRI.JOSEPH KODIANTHARA
SRI.TERRY V.JAMES

RESPONDENTS:

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1. TRIPUNITHURA MUNICIPALITY,
TRIPUNITHURA 682301,
REPRESENTED BY ITS SECRETARY.

2. THE MUNICIPAL SECRETARY,
TRIPUNITHURA MUNICIPALITY,
TRIPUNITHURA 682301.

BY ADV. SRI.V.M.KURIAN (SC)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 36901 of 2007

Dated this the 18th day of December , 2007

JUDGMENT

The Tribunal for Local Self Government Institution, Thiruvananthapuram is impleaed suo motu as additional 3rd respondent in this writ petition. The registry will carry out corrections in the cause title.

2. The petitioner, a builder, challenges in this writ petition under Article 226 of the Constitution Ext.P6 order passed by the first respondent Municipality rejecting the petitioner's application for construction of one more floor over their building which already has ground + three floors. Reason for rejection is that the proposed construction violates Rule 117 & Rule 50 of KMBR 1999.

3. A detailed counter affidavit has been filed by the Municipality justifying Ext.P6. One of the reasons stated by the petitioner for invoking the extraordinary constitutional jurisdiction of this court for challenging Ext.P6 rather than invoking the statutory remedies is that Ext.P6 is a cryptic order which does not supply the reasons which weighed with the Municipality for rejecting the petitioner's application. But, on going through the counter affidavit, I find that the reasons

which weighed with the Municipality are now made known to the petitioner.

3. I do not propose to decide the matter on merits. I relegate the petitioner to his remedies before the Tribunal for Local Self Government Institutions. If the petitioner prefers an appeal against Ext.P6, within two weeks from today, the Tribunal will register the same immediately and dispose of the same as early as possible taking into the circumstance that the building is under construction and the petitioner is having commitments to be honoured with their customers. The Tribunal shall ensure that the appeal is decided in any event, within three months of its registration.

PIUS C. KURIAKOSE,
JUDGE.

dpk